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Attorneys for Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re	)	Case No. 2:21-bk-18205-DS
)	
CRESTLLOYD, LLC,	)	Chapter 11
)	
Debtor.	)	OPPOSITION TO SECOND MOTION
	)	FOR ACCEPTANCE TO INCLUDE FULL
	)	SETTLEMENT & CLOSURE AND
	)	ORDER(S) FOR TRANSFER AND
	)	OTHER CONFIRMATION(S) SUPRA
	)	PROTEST [DKT. 446]
)	
	)	<u>Hearing:</u>
)	
	)	Date: December 1, 2022
	)	Time: 11:30 a.m.
	)	Place: Courtroom 1639
	)	255 E. Temple Street
	)	Los Angeles, CA 90012
	)	VIA ZOOMGOV ONLY
)	

1 Crestlloyd LLC, (the “Debtor”), the debtor and debtor-in-possession herein, hereby
2 responds to the *Second Motion for Acceptance to Include Full Settlement & Closure and Order(s)*
3 *for Transfer and Other Confirmation(s) Supra Protest* (the “Motion”) [Dkt. 446] filed by Andre
4 Mario Smith (the “Mr. Smith”), as follows:

5 (1) The Motion does not comply with the notice requirements of the Local
6 Bankruptcy Rules requiring, *inter alia*, (a) 21-days’ notice, (b) a specific indication of the relief
7 requested, and (c) the deadline for responding to the Motion [LBR 9013-1(c)(2) and (d)(2)];

8 (2) The Motion indicates that it is a “second” motion, but the Motion fails to
9 comply with LBR 9013-1(l) requiring that:

10 **Motion Previously Denied.** Whenever any motion for an order or other relief
11 has been made to the court and has been denied in whole or in part, or has been
12 granted conditionally or on terms, and a subsequent motion is made for the same
13 relief in whole or in part upon the same or any allegedly different state of facts,
14 it is the continuing duty of each party and attorney seeking such relief to present
15 to the judge to whom any subsequent motion is made, a declaration of a party
16 or witness or certified statement of an attorney setting forth the material facts
17 and circumstances surrounding each prior motion including:

- 18 (1) The date of the prior motion;
19 (2) The identity of the judge to whom the prior motion was made;
20 (3) The ruling, decision or order on the prior motion;
21 (4) The new or different facts and circumstances claimed to exist, which
22 either did not exist or were not shown upon the prior motion; and
23 (5) The new or different law or legal precedent claimed to exist, which
24 either did not exist or were not shown upon the prior motion.

25 The failure to comply with the foregoing requirement is grounds for the court
26 to set aside any order or ruling made on the subsequent motion, and ***subjects***
27 ***the offending party or attorney to sanctions.***

28 LBR 9013-1(l) (emphasis added);

(3) The Motion does not present any cognizable argument or request for relief to
which the Debtor and other parties in interest can formulate a response;

(4) To the extent that the Motion purports to relate to the *Second Interim*
Application of Levene, Neale, Bender, Yoo & Golubchik L.L.P. for Approval of Fees and
Reimbursement of Expenses (the “Application”) [Dkt. 439], the Motion is not an opposition and
Mr. Smith did not file any timely opposition to the Motion;

(5) To the extent that the Motion purports to relate to the property located at 944 Airole Way, Bel-Air, California 90077 (the "Property"), the Property has been sold pursuant to an order to which Mr. Smith did not file a timely appeal (the "Sale Order") [See Dkt. 247], and the Motion does not present any cognizable legal theory as to why the Sale Order should be overturned or modified in any manner whatsoever; and

(6) Mr. Smith has filed numerous other pleadings with the Court that do not comply with the Local Bankruptcy Rules and that do not present cognizable arguments or claims for relief, most, if not all, of which were denied by the Court. [See Dkts. 128, 132, 135, 137, 154, 156, 158, 159, 163, 168, 175, 179, 404, and 425.] The Debtor and, thus, the estate has expended material time and resources responding to such pleadings filed by Mr. Smith.

WHEREFORE, based on the foregoing, the Debtor requests that the Court enter an order (1) denying the Motion in its entirety, (2) admonishing Mr. Smith that the filing of any further pleadings that do not comply with the requirements of the Local Bankruptcy Rules and/or that do not present cognizable arguments or claims for relief may result in an order to show cause by the Court as to why Mr. Smith should not be sanctioned, and (3) providing such further and other relief as is warranted under the circumstances.

Dated: November 28, 2022

LEVENE, NEALE, BENDER, YOO
& GOLUBCHIK L.L.P.

By: /s/ Jonathan D. Gottlieb
DAVID B. GOLUBCHIK
TODD M. ARNOLD
JONATHAN D. GOTTLIEB
Attorneys for Debtor and
Debtor in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 2818 La Cienega Avenue, Los Angeles, CA 90034

A true and correct copy of the foregoing document entitled **OPPOSITION TO SECOND MOTION FOR ACCEPTANCE TO INCLUDE FULL SETTLEMENT & CLOSURE AND ORDER(S) FOR TRANSFER AND OTHER CONFIRMATION(S) SUPRA PROTEST [DKT. 446]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **November 29, 2022**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Kyra E Andrassy kandrassy@swelawfirm.com, lgarrett@swelawfirm.com;gcruz@swelawfirm.com;jchung@swelawfirm.com
- Todd M Arnold tma@lnbyg.com
- Jerrold L Bregman jlbregman@bg.law, ecf@bg.law
- Ryan Coy rcov@bg.law, ecf@bg.law
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- Paul Sorrell psorrell@lavelysinger.com
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- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Genevieve G Weiner gweiner@sidley.com, laefilingnotice@sidley.com;genevieve-weiner-0813@ecf.pacerpro.com
- Jessica Wellington jwellington@bg.law, ecf@bg.law

2. SERVED BY UNITED STATES MAIL: On **November 29, 2022**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Andre Mario Smith
7938 Broadway #1263
Lemon Grove, CA 91946

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **November 29, 2022**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

None.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 29, 2022
Date

Stephanie Reichert
Type Name

/s/ Stephanie Reichert
Signature